

ELEVENTH DAY - JANUARY 23, 2014
LEGISLATIVE JOURNAL
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

ELEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, January 23, 2014

PRAYER

The prayer was offered by Pastor Ray S. Wilke, Grace Lutheran Church, Norfolk.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Krist presiding.

The roll was called and all members were present except Senators Coash, Conrad, Davis, and Harms who were excused; and Senators Ashford, Christensen, Dubas, Karpisek, and Lautenbaugh who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 286, line 21, strike "Health and Human Services" and insert "Appropriations".

Page 286, line 22, strike "Appropriations" and insert "Government, Military and Veterans Affairs".

The Journal for the ninth day was approved as corrected.

The Journal for the tenth day was approved.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB977	Nebraska Retirement Systems (rereferred)
LB986	Revenue
LB987	Revenue
LB988	Judiciary
LB989	Executive Board
LB990	Transportation and Telecommunications
LB991	Banking, Commerce and Insurance
LB992	Education

LB993 Banking, Commerce and Insurance
 LB994 Health and Human Services
 LB995 Revenue
 LB996 Executive Board
 LB997 Business and Labor
 LB998 Judiciary
 LB999 Judiciary
 LB1000 Judiciary
 LB1001 Judiciary
 LB1002 Agriculture
 LB1003 Natural Resources
 LB1004 Appropriations
 LB1005 Natural Resources
 LB1006 Judiciary
 LB1007 Judiciary
 LB1008 Natural Resources
 LB1009 Education
 LB1010 Banking, Commerce and Insurance
 LB1011 Urban Affairs
 LB1012 Urban Affairs
 LR414 Agriculture
 LR416CA General Affairs

(Signed) John Wightman, Chairperson
Executive Board

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 359. Placed on Select File with amendment.
ER119

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 Section 1. Section 68-1206, Revised Statutes Supplement,
 4 2013, is amended to read:
 5 68-1206 (1) The Department of Health and Human Services
 6 shall administer the program of social services in this state.
 7 The department may contract with other social agencies for the
 8 purchase of social services at rates not to exceed those prevailing
 9 in the state or the cost at which the department could provide
 10 those services. The statutory maximum payments for the separate
 11 program of aid to dependent children shall apply only to public
 12 assistance grants and shall not apply to payments for social
 13 services. As part of the provision of social services authorized
 14 by section 68-1202, the department shall participate in the federal
 15 child care assistance program under 42 U.S.C. 618, as such section
 16 existed on January 1, 2013, and provide child care assistance to
 17 families with incomes up to one hundred twenty-five percent of the
 18 federal poverty level for FY2013-14 and one hundred thirty percent

19 of the federal poverty level for FY2014-15 and each fiscal year
20 thereafter.

21 (2) As part of the provision of social services
22 authorized by this section and section 68-1202, the department
23 shall participate in the federal Child Care Subsidy program. In
1 determining ongoing eligibility for this program, ten percent of
2 a household's gross earned income shall be disregarded. Initial
3 program eligibility standards shall not be impacted by the
4 provisions of this subsection.

5 ~~(2)~~(3) In determining the rate or rates to be paid
6 by the department for child care as defined in section 43-2605,
7 the department shall adopt a fixed-rate schedule for the state
8 or a fixed-rate schedule for an area of the state applicable to
9 each child care program category of provider as defined in section
10 71-1910 which may claim reimbursement for services provided by
11 the federal Child Care Subsidy program, except that the department
12 shall not pay a rate higher than that charged by an individual
13 provider to that provider's private clients. The schedule may
14 provide separate rates for care for infants, for children with
15 special needs, including disabilities or technological dependence,
16 or for other individual categories of children. The schedule may
17 also provide tiered rates based upon a quality scale rating of step
18 three or higher under the Step Up to Quality Child Care Act. The
19 schedule shall be effective on October 1 of every year and shall be
20 revised annually by the department.

21 Sec. 2. Original section 68-1206, Revised Statutes
22 Supplement, 2013, is repealed.

23 2. On page 1, line 2, strike "Reissue Revised Statutes of
24 Nebraska" and insert "Revised Statutes Supplement, 2013".

LEGISLATIVE BILL 359A. Placed on Select File with amendment.

ER120

1 1. On page 1, line 3, strike "First Session, 2013" and
2 insert "Second Session, 2014".

LEGISLATIVE BILL 13. Placed on Select File with amendment.

ER121

1 1. On page 1, strike beginning with "to" in line 7
2 through the first semicolon in line 9.

LEGISLATIVE BILL 128. Placed on Select File with amendment.

ER122

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 Section 1. Section 28-906, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:
5 28-906 (1) A person commits the offense of obstructing a
6 peace officer: ~~when,~~
7 (a) By intentionally and knowingly removing a firearm

8 or weapon from a peace officer in uniform or a peace officer
 9 displaying a badge of authority who is engaged in the performance
 10 of his or her official duties; or

11 (b) When, by intentionally and knowingly using or
 12 threatening to use violence, force, physical interference, or
 13 obstacle, he or she intentionally and actually obstructs, impairs,
 14 or hinders ~~(a)-(i)~~ the enforcement of the penal law or the
 15 preservation of the peace by a peace officer or judge acting
 16 lawfully under color of his or her official authority or ~~(b)-(ii)~~ a
 17 police animal assisting a peace officer acting lawfully pursuant to
 18 the peace officer's official authority.

19 (2) For purposes of this section, police animal means
 20 a horse or dog owned or controlled by the State of Nebraska or
 21 any county, city, or village for the purpose of assisting a peace
 22 officer acting pursuant to his or her official authority.

23 (3) Obstructing a peace officer is a Class I misdemeanor.

1 Sec. 2. Original section 28-906, Revised Statutes
 2 Cumulative Supplement, 2012, is repealed.
 3 2. On page 1, strike beginning with "28-101" in line
 4 1 through line 4 and insert "28-906, Revised Statutes Cumulative
 5 Supplement, 2012; to change the offense of obstructing a peace
 6 officer; and to repeal the original section."

LEGISLATIVE BILL 399. Placed on Select File with amendment.
 ER123

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 Section 1. Section 60-6,232, Revised Statutes Cumulative
 4 Supplement, 2012, is amended to read:
 5 60-6,232 (1) A rotating or flashing amber light or lights
 6 shall be displayed on the roof of any motor vehicle being operated
 7 by any rural mail carrier outside the corporate limits of any
 8 municipality in this state on or near any highway in the process of
 9 delivering mail.

10 (2) A rotating or flashing amber light or lights may be
 11 displayed on ~~(1)-(a)~~ any vehicle of the Military Department while
 12 on any state emergency mission, ~~(2)-(b)~~ any motor vehicle being
 13 operated by any public utility, vehicle service, or towing service
 14 or any publicly or privately owned construction or maintenance
 15 vehicle while performing its duties on or near any highway, ~~(3)~~
 16 (c) any motor vehicle being operated by any member of the Civil
 17 Air Patrol, ~~(4)-(d)~~ any pilot vehicle escorting an overdimensional
 18 load, ~~(5)-(e)~~ any vehicle while actually engaged in the moving
 19 of houses, buildings, or other objects of extraordinary bulk,
 20 including unbaled livestock forage as authorized by subdivision
 21 (2)(f) of section 60-6,288, ~~(6)-(f)~~ any motor vehicle owned by or
 22 operated on behalf of a railroad carrier that is stopped to load
 23 or unload passengers, ~~(7)-(g)~~ any motor vehicle operated by or
 1 for an emergency management worker as defined in section 81-829.39

2 or a storm spotter as defined in section 81-829.67 who is activated
3 by a local emergency management organization, or (h) any motor
4 vehicle operated by a volunteer member of a public safety or crime
5 prevention organization which has been authorized to use such light
6 or lights under such terms and conditions and within such area
7 as determined by the county attorney of the county where the use
8 occurs. Such volunteer members shall be registered and authorized
9 by the county attorney in the county where the use occurs before
10 they are allowed to display such lights.
11 Sec. 2. Original section 60-6,232, Revised Statutes
12 Cumulative Supplement, 2012, is repealed.

(Signed) John Murante, Chairperson

COMMITTEE REPORTS

Banking, Commerce and Insurance

LEGISLATIVE BILL 668. Placed on General File.
LEGISLATIVE BILL 687. Placed on General File.
LEGISLATIVE BILL 712. Placed on General File.
LEGISLATIVE BILL 714. Placed on General File.

(Signed) Mike Gloor, Chairperson

NOTICE OF COMMITTEE HEARING

Nebraska Retirement Systems

Room 1525

Thursday, January 30, 2014 12:00 p.m.

LB929
LB918

(Signed) Jeremy Nordquist, Chairperson

MESSAGES FROM THE GOVERNOR

January 17, 2014

Mr. President, Speaker Adams
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Adams and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed
to the Nebraska Power Review Board:

Dennis E. Grennan, 1877 W. Calle Columbo, Columbus, NE 68601

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

January 17, 2014

Mr. President, Speaker Adams
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Adams and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the State Racing Commission:

Jeffrey Galyen, 3205 Golf View Drive, Norfolk, NE 68701
Dennis Lee, 4610 S. 133 St., Suite 103, Omaha, NE 68137

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

January 17, 2014

Mr. President, Speaker Adams
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Adams and Members of the Legislature:

Contingent upon your approval, the following individual is being reappointed to the Commission for the Deaf and Hard of Hearing:

Carol Lomicky, 14 Skyline Drive, Kearney, NE 68845

Also, contingent upon your approval, the following individuals are being appointed to the Commission for the Deaf and Hard of Hearing:

Regina "Gina" Frerichs, 374 S. Deer Creek Place, Columbus, NE 68601
John Hogue, 440 West Eagle Street, Arlington, NE 68002

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

January 17, 2014

Mr. President, Speaker Adams
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Adams and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the Coordinating Commission for Postsecondary Education:

Mary Lauritzen, 1097 Highway 9, West Point, NE 68788
William "Scott" Wilson, 7753 Hidden Valley Dr., Papillion, NE 68046

Contingent upon your approval, the following individuals are being appointed to the Coordinating Commission for Postsecondary Education:

Dwayne Probyn, 813 Western Hills Drive, Papillion, NE 68046
Lori L. Warner, 514 W. 14 Street, South Sioux City, NE 68776

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

COMMUNICATION

Received communication to Patrick J. O'Donnell, Clerk, from Joseph M. Acierno, MD, JD, Chief Medical Officer, Director, Division of Public Health, Department of Health and Human Services, regarding the appointment of the following scientist to the Stem Cell Research Advisory Committee:

Dr. Joyce Bischoff

GENERAL FILE

LEGISLATIVE BILL 656. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 657. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 9 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 658. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 9 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 659. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 9 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 403. Senator Kintner asked unanimous consent to withdraw his motion, MO117, found on page 330, to reconsider the vote taken on FA177. No objections. So ordered.

Senator Schilz offered his amendment, AM1672, found on page 331.

The Schilz amendment was adopted with 31 ayes, 3 nays, 10 present and not voting, and 5 excused and not voting.

Senator Kintner offered his amendment, AM1670, found on page 331.

Senator Kintner withdrew his amendment.

Advanced to Enrollment and Review Initial with 33 ayes, 5 nays, 6 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 215. Title read. Considered.

Committee AM156, found on page 607, First Session, 2013, was offered.

Senator Schilz offered his amendment, AM1631, found on page 264, to the committee amendment.

The Schilz amendment was adopted with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

The committee amendment, as amended, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 470. Title read. Considered.

Committee AM444, found on page 607, First Session, 2013, was offered.

Senator Sullivan offered her amendment, AM1614, found on page 203, to the committee amendment.

The Sullivan amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

The committee amendment, as amended, was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

RESOLUTION**LEGISLATIVE RESOLUTION 424.** Introduced by Lathrop, 12.

WHEREAS, Nikko Jenkins, a former inmate of the Department of Correctional Services, stands charged with three separate homicides, and each homicide is alleged to have occurred after Jenkins was released from the Department of Correctional Services on July 30, 2013; and

WHEREAS, the office of the Public Counsel (Ombudsman) released a report on January 6, 2014, which chronicled Jenkins' involvement with the Department of Correctional Services. The report detailed Jenkins' sentences, good time allowed, and multiple attempts to secure mental health treatment. The report also included various general impressions and observations regarding the segregation of inmates, the transition of inmates from incarceration to the community at large, the allowance of good time, mental health services for inmates, and the civil commitments of inmates; and

WHEREAS, the report was presented by the Ombudsman to Mike Kenney, director of the Department of Correctional Services, and to the deputy director for health services at the Department of Correctional Services to permit them an opportunity to submit comments to the report prior to its release. The response tendered by the Department of Correctional Services simply disputed the factual allegations of the report, and public remarks by Governor Dave Heineman impeached the veracity of the report by suggesting that the Ombudsman's office was "soft on crime"; and

WHEREAS, the circumstances of Jenkins' release has understandably generated intense public interest as evidenced by countless news stories concerning his release and the subsequent homicides, and the Ombudsman's report and the Governor's impeachment of the report have created confusion among the public regarding the circumstances of Jenkins' release and the policies and practices of the Department of Correctional Services that contributed to his early release; and

WHEREAS, the citizens of Nebraska have a right to know the details of Jenkins' incarceration, including his threats to kill upon release and his pleas for a mental health commitment, the details of his release, and the opportunities the Department of Correctional Services had to withhold or revoke good time and diminish, through mental health care, his dangerous propensities prior to his release; and

WHEREAS, the Legislature must fully understand the policies and procedures of the Department of Correctional Services, an agency within the executive branch of state government, in order to determine if those policies and procedures in any manner contributed to Jenkins' release into the community at large.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED THIRD LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature hereby calls for the Executive Board of the Legislative Council to meet forthwith and appoint a special committee of the Legislature to be known as the Department of Correctional Services Special Investigative Committee of the Legislature. The committee shall consist of five members of the Legislature appointed by the Executive Board. The committee shall elect a chairperson and vice-chairperson from the membership of the committee. The Executive Board is hereby authorized to provide the committee with a legal counsel, committee clerk, and other staff as required by the committee from existing legislative staff. The Executive Board is also authorized to hire outside legal counsel, consultants, and investigators as required by the committee. The committee shall be an investigative committee and is hereby authorized to hold hearings and issue subpoenas as deemed necessary by the committee.

2. That the Department of Correctional Services Special Investigative Committee of the Legislature is hereby authorized to study the circumstances of Nikko Jenkins' incarceration and release including, but not limited to, the following:

(a) Jenkins' criminal history and the sentences received for each conviction;

(b) Jenkins' juvenile justice and child welfare involvements;

(c) The history of Nebraska's good time laws and the policies or practices of the Department of Correctional Services administering how the good time laws and policies were applied to Jenkins' multiple sentences;

(d) The occasions when Jenkins, during his incarcerations, threatened to kill upon his release from the Department of Correctional Services and the department's response to each threat;

(e) Each occasion when Jenkins requested mental health treatment or commitment to the Lincoln Regional Center or similar placement and the department's response to each request;

(f) The extent to which Jenkins' release was related to prison overcrowding; and

(g) All communications by any state employee or elected official concerning Jenkins' release or regarding any of the matters listed in (a) through (f) above.

3. That the committee shall also study the following with respect to the Department of Correctional Services:

(a) The adequacy of programs designed to rehabilitate inmates;

(b) The funding history of programs designed to rehabilitate inmates;

(c) The availability of mental health care and the policies and procedures in place to ensure that inmates receive appropriate mental health care or confinement through the civil commitment process;

(d) The policies relating to the segregation of inmates;

(e) The transition of inmates from incarceration to the community at large;

(f) The administration of good time laws; and

(g) Any evaluation or study made of the department's policies and practices, whether or not any recommendations were adopted, and the reasons if any recommendations were not adopted.

4. That the committee shall issue a report with its findings and recommendations to the Legislature no later than December 15, 2014.

Laid over.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR424 was referred to the Reference Committee.

NOTICE OF COMMITTEE HEARINGS

Appropriations

Room 1003

Thursday, January 30, 2014 1:30 p.m.

LB848

LB678

LB974

(Signed) Heath Mello, Chairperson

Natural Resources

Room 1525

Thursday, January 30, 2014 1:30 p.m.

Galen Frenzen - Nebraska Ethanol Board
Paul Kenney - Nebraska Ethanol Board
LB686
LB710

Friday, January 31, 2014 1:30 p.m.

LB798
LB965

(Signed) Tom Carlson, Chairperson

Judiciary

Room 1113

Friday, January 31, 2014 1:30 p.m.

LB939
LB998
LB921
LB674

(Signed) Brad Ashford, Chairperson

GENERAL FILE**LEGISLATIVE BILL 76.** Title read. Considered.

Senator Nordquist offered his amendment, AM1640, found on page 244.

The Nordquist amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

COMMITTEE REPORT

Education

LEGISLATIVE BILL 725. Placed on General File.

(Signed) Kate Sullivan, Chairperson

AMENDMENT - Print in Journal

Senator Krist filed the following amendment to LB464:
AM1674 is available in the Bill Room.

NOTICE OF COMMITTEE HEARING
Executive Board

Room 2102

Thursday, January 30, 2014 12:00 p.m.

LB763
LB871
LB917

(Signed) John Wightman, Chairperson

GENERAL FILE

LEGISLATIVE BILL 371. Title read. Considered.

Committee AM307, found on page 614, First Session, 2013, was offered.

Senator Mello offered his amendment, AM1591, found on page 113, to the committee amendment.

The Mello amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

The committee amendment, as amended, was adopted with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 272. Title read. Considered.

Committee AM433, found on page 618, First Session, 2013, was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 514. Title read. Considered.

Committee AM412, found on page 619, First Session, 2013, was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 597. Title read. Considered.

Committee AM346, found on page 648, First Session, 2013, was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 513. Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 313. Title read. Considered.**SPEAKER ADAMS PRESIDING**

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 404, 405, 406, and 407 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 404, 405, 406, and 407.

UNANIMOUS CONSENT - Add Cointroducers

Senator Bloomfield asked unanimous consent to add his name as cointroducer to LB1001 and LB1016. No objections. So ordered.

Senators Hansen and Krist asked unanimous consent to add their names as cointroducers to LB916. No objections. So ordered.

Senators Avery and Pirsch asked unanimous consent to add their names as cointroducers to LB371. No objections. So ordered.

Senator Ashford asked unanimous consent to add his name as cointroducer to LB1102. No objections. So ordered.

Senator Dubas asked unanimous consent to add her name as cointroducer to LB660 and LB887. No objections. So ordered.

Senator Scheer asked unanimous consent to add his name as cointroducer to LB952. No objections. So ordered.

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB470. No objections. So ordered.

VISITORS

Visitors to the Chamber were Captain Jeffrey Joseph, Commander of the USS Nebraska; and 10 members of the Nebraska Young Cattlemen from across the state.

The Doctor of the Day was Dr. Susan Keasling from Omaha.

ADJOURNMENT

At 12:00 p.m., on a motion by Senator Schumacher, the Legislature adjourned until 9:00 a.m., Friday, January 24, 2014.

Patrick J. O'Donnell
Clerk of the Legislature

